



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

SEEMA KASSAB
Assistant Corporation Counsel
phone: (212) 356-0827
fax: (212) 356-3509
skassab@law.nyc.gov

May 24, 2023

VIA ECF

Honorable Nicholas G. Garaufis
United States District Court Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Carlton Roman v. City of New York, et al.
22-cv-6681 (NGG) (CLP)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney representing defendants City of New York, William Pepey, John Loguercio, Gerard Fiorenza, Leonard Palermo, Patrick O'Brian, Dennis Byrne, Catharine Lomuscio, Richard Schaeffer, Robert Masters, and Francesco Catarisano (collectively, the "defendants") in this action. By way of background, this matter involves a 31-year old prosecution which was vacated in 2021. In 2022, Plaintiff filed the instant action, which includes a 159 page, 658 paragraph complaint. Defendants were previously granted permission to move to dismiss the complaint, however, given the explanations below, Defendants respectfully request a one week extension, from May 26, 2023 to June 2, 2023, to file their Rule 12 Motion to Dismiss. Plaintiff's counsel, James Henning, opposes this request as "an attempt to further delay this case."

The reason for this request is that additional time is needed for the undersigned to finalize Defendants' motion to dismiss. As Your Honor may be aware, on May 15, 2023, Magistrate Judge Pollak issued an Order granting Plaintiff leave to depose certain non-party witnesses, including the current Queens County District Attorney Melinda Katz, former Executive ADA James Quinn, and retired Lieutenant Torres, and also ordered Defendants to produce, within three weeks, an extensive volume of documents from the Queens County DA's Office. The next day, without conferring about scheduling, Plaintiff's counsel commenced issuing subpoenas to these witnesses for their depositions to take place immediately in the upcoming weeks.

As Your Honor is likely aware, on May 23, 2023, Defendants filed a Rule 72 motion requesting that Judge Pollak's May 15th Order be set aside in light of Your Honor's March 1, 2023 Order which significantly narrowed the scope of discovery while Defendants' motion to dismiss is pending. Following Magistrate Judge Pollak's May 15, 2023 Order and given Plaintiff's immediate action thereafter subpoenaing witnesses for depositions as soon as May 31, 2023 and the first week of June, Defendants felt it necessary to file their Rule 72 motion as soon as possible. Accordingly, time that the undersigned initially planned to dedicate to finalizing the instant motion to dismiss had to be shifted to address the Rule 72 motion and subsequent request to Judge Pollak to request a stay of her May 15, 2023 Order¹, until such time Your Honor issues a decision on Defendants' Rule 72 motion.

The undersigned assures the Court that I am working diligently on the motion to dismiss and that there is no intention on the part of the undersigned to purposefully delay this litigation.

I thank the Court for its time and consideration of this request.

Respectfully submitted,

/s/ Seema Kassab

Seema Kassab

Assistant Corporation Counsel

cc: All Counsel (By E.C.F.)

¹ Shortly before filing the instant request, Judge Pollak granted Defendants' request to stay her May 15, 2023 Order pending the District Court's ruling on Defendants' Rule 72 Motion.